

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper **14**

Filed by: Interference Trial Section Merits Panel  
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Board of Patent Appeals and Interferences  
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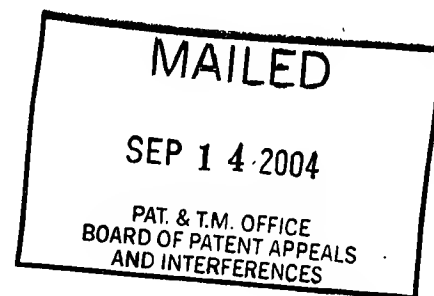
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

CHRISTOPHER J. STEPHENS  
(Patent No. 5,393,368),

v.

SHIGERU TAMAI  
(Application 08/196,839).



Patent Interference No. 103,662

Before: McKELVEY, Senior Administrative Patent Judge, and SCHAFER and TORCZON,  
Administrative Patent Judges.

**JUDGMENT - RULE 658**

PER CURIUM

A panel of this board issued a final decision in this interference awarding priority against Stevens (Paper 78) which was adhered to on reconsideration (Paper 82). Stevens appealed to the United States Court of Appeals for the Federal Circuit. The Federal Circuit reversed and remanded "with instructions to enter judgment for Stevens." Stevens v. Tamai, 366 F.3d 1325, 1335, 70 USPQ2d 1765, 1773 (Fed. Cir. 2004). Tamai requested rehearing and suggested rehearing in banc.

which has also been denied.

Section 144 of 35 U.S.C. provides that on appeal, the Federal Circuit

shall review the decision from which an appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue to the Director its mandate and opinion, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.

Accordingly, we enter judgment implementing the Federal Circuit's mandate.

### ORDER


It is

**ORDERED** that judgment on priority as to Count 1, the only count in this interference, is awarded against SHIGERU TAMAI;

**FURTHER ORDERED** that SHIGERU TAMAI is not entitled to a patent containing Claims 1-21 of Application 08/196,839 which correspond to Count 1;

**FURTHER ORDERED** that if there is a settlement agreement and it has not already been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661; and

**FURTHER ORDERED** that a copy of this judgment be given an appropriate paper number and entered into the file records of Patent No. 5,393,368 and Application 08/196,839.

  
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FRED McKELVEY  
Senior Administrative Patent Judge

  
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RICHARD E. SCHAFER  
Administrative Patent Judge

) BOARD OF PATENT  
) APPEALS AND  
) INTERFERENCES

  
\_\_\_\_\_  
RICHARD TORCZON  
Administrative Patent Judge

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